Planning and Accessibility Issues in Venue/Event Operations

Chapter 17

Management Context	*Major Legal Issues*	*Relevant Law*	*Illustrative Cases*
Financing proposals	Use of public funds for new sport facilities	State statutes and constitutions	*Rowe, Minnesota Vikings, Atlanta Braves*
		Open and obvious danger	*Kelly, King County*
Team relocation	Long-term tenant agreements with professional teams	Contract law	*St. Louis Rams, Oakland Raiders*
Property acquisition	Government condemnation of private lands for stadium projects	Fifth Amendment	*Berman, City of Orlando, Boise State, DC United*
Access for people with disabilities	Avoiding discrimination against patrons with disabilities	Americans with Disabilities Act	*PGA Tour, Inc., Miller, Feldman, Charlebois, Celano, Clark, Orioles, Cubs, Seattle Mainers, Salsccia, California Parks and Recreation, Landis*
Spectator searches	Searching spectators prior to entry to facility and surveillance during events	Fourth Amendment	*Katz, Johnston*
		Privacy	*Brannum*

Management Contexts, Relevant Laws, and Cases

Facility Financing and Planning

- Facility financing
- Team relocation
- Stadium location and property acquisition

Financing Plans and Proposals

Legal Issues Raised and Questions to be Answered

- Will there be a voting referendum so the public can approve or reject the proposal?
- Will a city, county, or state issue bonds to finance the construction and thus increase its debt?
- Will public money be used to assist private parties?
- Does the project pose environment concerns
- Do city officials have a conflict of interest or does bid proposal lack transparency
- What is the impact on surrounding landowners and businesses

Legal Review

- What are your thoughts on building new sport facilities?
- Is the use of taxpayer money, with no guarantee of financial repayment, an appropriate use of public funds?
- Should new sport venue projects require public approval through some democratic process such as a public referendum?

Competitive Advantage Strategies

Facility Financing and Construction

Consult with legal counsel regarding contracts and tax and property law issues.

Anticipate legal challenges or public criticism of a project.

When setting financing and construction timelines, take into consideration potential delays due to legal challenges.

Team Relocation

Legal challenges may occur after a stadium has been financed and built, when a team threatens to leave for another city with an even newer facility.

Generous lease agreements used to lure sports franchises.

Cities and fans usually have few legal remedies to prevent a team from relocating.

Cities may use longer leases with more contractual protections in lease agreements.

Stadium Location and Property Acquisition

Power of eminent domain and condemnation

Government is a powerful partner in most facility-building projects

- Government agency can "take" private land for public use, public purpose, or public benefit while providing landowners with "fair market value"
- 5th Amendment and numerous state laws often restrict or regulate the scope of an agency's eminent domain and condemnation powers
- Project opponents can also assert zoning challenges to delay or force relocation of sport venue projects

Competitive Advantage Strategies
Facility Financing and Planning

- Consult with legal counsel regarding contracts and tax and property law issues.
- Anticipate legal challenges or public criticism of a project.
- When setting financing and construction timelines, take into consideration potential delays due to legal challenges.

Accessibility and the ADA
Americans with Disabilities Act of 1990

"to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities"

Title III: [n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any **place of public accommodation** by any person who **owns, leases (or leases to), or operates** a place of public accommodation

Accessibility and ADA Tools and Resources

- United States Access Board
- Department of Justice
  - regulations and accessibility guidelines
  - Technical assistance manuals
- Accessibility Guidelines available for
  - Stadiums
  - Recreational facilities
  - Ticket sales

Private Enforcement of ADA's Mandate

- ADA permits a private right of action for individuals subject to discrimination:
  - Most common remedy is an injunction (an order requiring the place of public accommodation to comply with the ADA)
  - Typically, no money damages, but plaintiff can recover attorney's fees

Elements of an ADA Discrimination Claim

An individual alleging discrimination under Title III must show that:

(1) he is disabled as that term is defined by the ADA;

(2) the defendant is a private entity that owns, leases, or operates a place of public accommodation;

(3) the defendant employed a discriminatory policy or practice; and

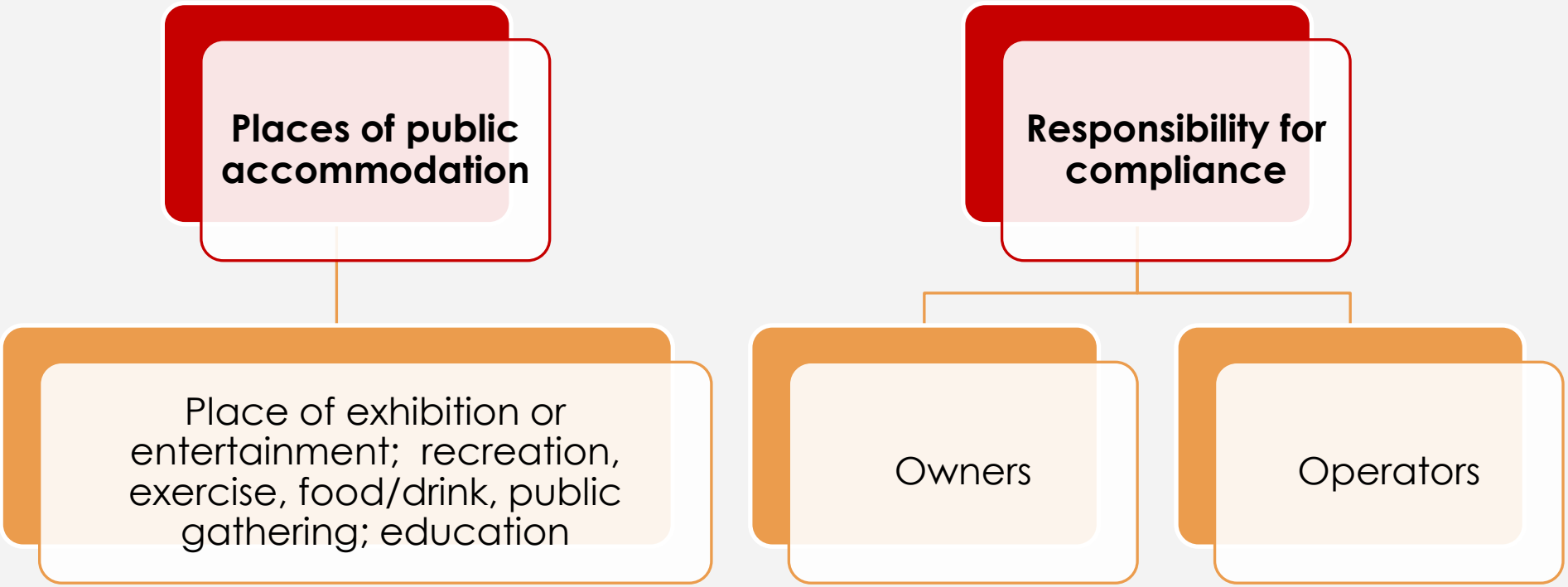
(4) the defendant discriminated against the plaintiff based upon the plaintiff's disability by

  (a) failing to make a requested reasonable modification that was

  (b) necessary to accommodate the plaintiff's disability.

Broad Mandate of the ADA

All sport and recreation facilities are subject to ADA, but some questions still arise related to who is responsible for compliance


Places of public accommodation
Place of exhibition or entertainment; recreation, exercise, food/drink, public gathering; education
Responsibility for compliance
Owners
Operators

Accessibility and the ADA

ADA Compliance requires a dual perspective

Design and Accessibility

- Structural Accessibility and Renovations

Operations and Accessibility

- Equal Enjoyment of Services and Amenities

ADA Issues for Sport Venues

Accessible Seating

- Number and placement of seating.

Lines of Sight

- Comparable or unobstructed views

Assistive Devices

- Hearing or visually impaired; closed captioning

Ticketing Policies

- Sales, pricing, group sales, secondary markets

Service Animals

- Trained to perform a service or provide assistance, not emotional support animals.

Legal Review

- Consider your last visit to a local sports venue or its website:
  - How many accessible features do you recall?
    - At the venue?
    - On the website?
- How would you train your staff to respond to a patron seeking entrance with an emotional support animal?

Competitive Advantage Strategies
ADA Compliance

01

Make sure that staff understand that patrons with disabilities must be able to access all public areas of the facility and that reasonable requests for accommodation must be granted.

02

Investigate sight lines and accessible seating locations regularly; make sure there are a required minimum number of seats for patrons with disabilities.

03

Train ticket sales staff regularly on how to respond to requests from patrons with disabilities.

Spectators and Privacy

Spectator Searches

Surveillance and Security

Spectator Searches and What is Reasonable?

Fourth Amendment to the U.S. Constitution asks 3 questions:

- Is there state action? If so,
- Does challenged activity constitute a search or seizure?, If so,
- Was the search reasonable?

Need—What is the nature of the threat? Real or perceived?

Efficacy—Will the search avert an identified harm?

What is the nature and degree of the intrusion?

Legal Review

When you go to a sporting event and your backpack/purse is searched:

- Do you feel this is an intrusion of your right to privacy?
- Or do you feel relieved knowing that the managers of the facility are looking out for your safety?

Legal Issues and Surveillance Activities

- Biometric Data
- Video/Camera Surveillance
- Drones & Unmanned Aerial Vehicles
- GPS Tracking Technology

Legal Issues

- Federal and state privacy acts
- Fourth Amendment to the U.S. Constitution
- Proposed drone regulatory legislation
- Data protection statutes

Legal Review

If you attended a sporting event and saw helicopters, police boats, scuba divers, bomb-sniffing dogs, drones, and more:

- Would you feel safer?
- Would you be concerned about a continuing loss of privacy?

Competitive Advantage Strategies
Spectator Search Issues

1

Balance the need for conducting spectator searches with the potential intrusion imposed on your customers.

2

Be as non-intrusive as possible.

3

Provide advance notice to spectators about pat-downs or bag searches.